

afterwards be varied without the consent of the employé. But with Government service it is understood that the welfare of the Department, and of the public generally, may demand that rules should be modified and new rules made, so that the service may be as efficient as possible, and the public advantage, in the proper conduct of public business, secured. But in the former case there *may be*, and in the latter there always *is*, an expressed or implied agreement to accept any alterations in terms that may be necessary. Such changes never of course amount to any absolute or legal injustice constituting a breach of contract (as *e.g.*, if Government were suddenly to require all its servants to work without salary).

And I may here add that Government always recognises the duty of making known, by the due publication of circulars, &c., any such terms of service, or alterations in them. I apprehend that a public servant would have a good case if he were dismissed for breach of a particular rule, and he could show that he was unaware, and had no means of becoming aware, of the rule.

SECTION II.—THE APPOINTMENT OF FOREST OFFICERS AND ORGANIZATION OF THE SERVICE.

§ 1.—*The Forest Acts.*

In the Indian Forest Act, as I said before, no titles or grades of forest officers are specifically provided. The different official designations, and the gradations of rank and pay, the age and qualifications of nominees, and so forth, are executive matters and are prescribed by authority of Government in the Forest Department Code⁸. The Act only speaks of “Forest Officers” generally, and this term is defined to include any person (by whatsoever designa-

⁸ By the French Law, and some of the German Laws, many of these matters are prescribed by law. In France, for example, the age at which a person can be appointed to a forest executive office is fixed by law at 25 years, with a power to Government to grant dispensation in certain cases.

tion called) whom the Governor-General in Council⁹ or the Local Government (or any officers to whom the power of appointment is delegated by either) appoints by name or '*ex-officio*' to do anything required to be done by the Act, or rules made under it, by a forest officer.

This might at first sight give rise to a doubt, because the authorities mentioned do not, in fact, appoint forest officers in this way. A gazette or other order of appointment merely states that so and so is appointed to be a Conservator, a Deputy Conservator, an Assistant Conservator, or Sub-Assistant Conservator of Forests, or Forest Ranger, a Forester, or a Forest Guard ; and is posted to such a province or forest division in the province.

This difficulty is got over by making rules under section 75 of the Act. Such rules can set forth that all the officers now appointed, or hereafter to be appointed, with these titles, are forest officers under the Act, and there the duties and powers of the different grades are specified¹⁰.

The Burma Act has avoided all difficulty of this kind by declaring that "Forest Officer" means all persons appointed (by the authorities stated) to be Conservators, Deputy Conservators, Assistant Conservators, &c., &c., or to discharge any function of a forest officer under the Act or rules. (This latter addition includes the case of civil officers appointed to do certain acts in places where a regular forest staff has not yet been constituted.) In

⁹ Officers appointed at home by the Secretary of State are nevertheless formally appointed Assistant Conservators, &c., by the Governor-General in Council, on arrival in India.

¹⁰ As an example of how this is done I give the rules issued under section 75 (on this subject) by the Panjab Government, as follows :—

No. 533F.—*Notification*.—The Lieutenant-Governor is pleased, under section 75 of Act VII of 1878 (The Indian Forest Act), to prescribe and limit the duties of Forest Officers * * * * * by the following rules :—

(1) The Conservator of Forests, all Deputy Conservators, Assistant Conservators, Sub-Assistant Conservators, Forest Rangers, Foresters, and Forest Guards are appointed to do all acts, and exercise all powers that are prescribed by the Act, or by Rules made under it, to be done by a forest officer or by any forest officer.

(2) The forest officers mentioned in the first column of the following schedule

consequence of this definition, the Act throughout prescribes everything to be done, either by "a" or "any" forest officer, or by "a forest officer specially empowered." All that is necessary is that the Local Government should notify what individual officers or classes of officers may act under the different sections; the officers so specified are those "specially empowered" as regards those sections. shall exercise the powers under the sections of the Act mentioned in the second column of the same opposite each class of officers respectively:—

Class of Officers empowered.	Section of the Act under which powers are given.	Brief description of nature of powers conferred.
I.—All Deputy Conservators, Assistant Conservators and Sub-Assistant Conservators, when in charge of Forest Divisions.	20 25 45 46 47 50 60 82 25 33	To publish translation of notifications reserved forests. To notify seasons during which the kindling, &c., of fire is not prohibited. To notify dépôts for drift timber, &c. To issue notice to claimants of drift timber, &c. To decide claims to drift timber, &c. To receive payments on account of drift timber, &c. To direct release of property seized. To take possession of and sell forest produce for Government dues. To permit acts otherwise prohibited in reserved forests. To permit acts otherwise prohibited in protected forests.

(3) Conservators of Forests are empowered to exercise all or any of the powers conferred in the foregoing schedule.

(4) Conservators of Forests are empowered, under section 24 of the Act, with the previous sanction of the Commissioner of the Division, to stop ways and water-courses in reserved forests, subject to the provisions of that section.

§ 2.—*No provision for Enrolment.*

There is no special process of *enrolment* even for the “rank and file” or the protective staff of the forest service. In the case of the Police force, for example, each officer is furnished with a formal certificate of service, and then the law provides that he is vested with the powers, functions and privileges of a Police officer. The Inspector-General of Police can make rules under the Act regarding equipment and organization. By law, Police officers are bound not to be absent without leave, not to resign without giving two months’ notice, not to trade, not to break rules wilfully, nor to exhibit cowardice, nor offer personal violence to persons in their custody; and a breach of any of these rules gives rise to a fine or loss of pay, and also to a criminal penalty of three months’ imprisonment and fine¹.

There is however, as a matter of principle, a dislike to invoke the aid of criminal law and penalties whenever contract obligations may possibly suffice, and therefore these legal provisions have not been enacted in the case of forest officers. It might, therefore, happen that a forest officer, suspended for misconduct, might defy his superiors, by giving a month’s notice (as the service is on monthly salary) to quit, or might leave without notice (forfeiting his right to pay), and he could do so with impunity, the only remedy being an action for damages. But this and other acts of misfeasance may be guarded against by making it a condition of appointment that the nominee should furnish *security*, of one or more solvent and respectable persons, for his good conduct and obedience to rules².

¹ See Act V of 1861 (Police Act), sections 7, 8, 9, 10 and 29.

² This condition Government has an obvious right to insist on before giving an appointment; but the matter has not yet, as far as I am aware, been the subject of any official orders. I would remark that security should be always either by deposit of cash (in Government Savings Bank so as to bear interest) or of Government securities, or be the personal security of persons, as stated in the text. The hypothecation of land or houses is very unsatisfactory, as there is always difficulty about realization even if the value is not doubtful.

§ 3.—*Punishment, Suspension and Dismissal.*

The question, therefore, of suspending a forest officer, *fining* him for neglect, or *dismissing* him for misconduct, depend on his ^{own} contract obligation (implied, or expressed in a covenant) to obey the rules of his service; and these rules are very clearly laid down in the Departmental Code³. In only one case does the Forest law itself make mention of one subject of service discipline. The Departmental Code prohibits a forest officer being concerned in any forest lease or working, all trading, holding of land, &c. (chapter I,

³ In many of the continental laws these matters are minutely regulated by law. As a remarkable example, I may allude to the law of public service (*Staatsdienergesetz*) of Saxony (7th March 1835). Here various grades of punishment are contemplated—(1) actual dismissal, (2) suspension for a time, (3) official reprimand with or without fine up to 50 thalers in case of a superior, or being put under arrest for a term not exceeding eight days in that of an inferior officer.

Actual dismissal is lawful—

- (a) On conviction of certain offences (specified in the law), or any offence punishable with imprisonment for more than six months, or when the public servant has been *accused* of such offence but has been *acquitted* in an *unsatisfactory way* (details are given, but would not be intelligible to the English student).
- (b) And so in cases of offences which are such that public respect and confidence must be withdrawn from a public servant guilty of them.
- (c) In certain acts expressly threatened with dismissal in the "*Dienst Instruction*" or standing orders of service handed over to the official on receiving his appointment.
- (d) On becoming bankrupt.

* * * * *

In all cases of notice of dismissal an opportunity of making a defence is to be given.

The lesser punishments indicated above may be inflicted according to circumstances.

First the reprimand is tried, then the suspension, which in itself operates as a 'second reprimand'; and after the second reprimand a repetition of the offence entails dismissal. Offences so dealt with are—

- (a) The officer has been punished with imprisonment for lesser crimes than those above stated;
- (b) Is habitually addicted to immoral conduct;
- (c) Lowers himself in the public estimation, especially by habitually consorting with low characters or loose women, habitual drunkenness, reckless getting into debt, gambling, making use of his official position for his own unlawful benefit, habitual ill-temper and unaccommodating disposition in his official relations;

section 1, para. 11); and the Act itself has prohibited, and therefore rendered penal, the breach of such a rule, as far as any trading in timber and leasing or working a forest is concerned.

The Departmental Code also governs reduction in rank (sections 36-7). Such dismissal in the superior grades and in the inferior is similarly provided for in section 46. Subordinate officers are also liable to fine under section 47.

§ 4.—*Duties of Forest Officers.*

So also the Code lays down the departmental duties of forest officers.

The intention is gradually to divide the service into distinct classes, the lower being purely *protective*; the next *executive*, carrying out surveys, demarcation, planting, fencing, selling, thinning, and all other works; and the highest being the *controlling staff*, the duty being to give instructions as to what work is to be done and how, and to see by constant *inspection* that it is going on properly, and that all grades do their duty effectively.

At present, the state of affairs does not admit of this division being completely carried out, as the executive and controlling branches are not yet completely separated.

- (d) Improper disclosure of official matters;
- (e) Habitual disposition to revile publicly the internal rules and regulations of the State and its officials;
- (f) Harsh and degrading treatment of subordinates or of private persons in his official relations with them, or arbitrary and capricious conduct towards inferiors;
- (g) Connivance with inferiors in the irregular or unfaithful discharge of their duty;
- (h) Neglect to give proper supervision and attention to subordinates.

* The French organization draws a distinction between forest officers as "*préposé*" and as "*agent*." The former includes what we should call the protective staff only, the latter the controlling and executive. The former are the *gardes* of cantons or beats and the "*brigadiers*"; the latter are the "*Conservateurs*," "*Inspecteurs*," and *Sous Inspecteurs* and *Gardes Généraux*." The former only have the power of arrest; they make the formal statement (*constatation*) of forest offences; and if the latter do the same to a certain extent, it is only as secondary duty to enable them to fulfil their primary duty. The Guards make the official report and "*constatation*," the "*agents*" carry the prosecution to Court (Code F., 171-4) Manuel de Legis.

In India forest officers have to receive revenue paid into their hands, and consequently to keep accounts of this as part of their receipts, along with the funds they are entrusted with to pay for work done and materials supplied, &c.

§ 5.—*Oath of Service.*

In India no oath or solemn affirmation on taking service, is required by law or by rules of service.

It is not thought necessary. A good man will do his duty without such a formality; a bad man will hardly be much influenced by it. In either case the general law and the responsibility under contract of service are better guarantees for effective service than oath⁵.

On the other hand, the Police law might well be imitated in giving a *formal certificate*, the retention of which after dismissal should be made penal; and above all the Saxon plan of giving a "*dienst instruction*," or printed form, showing briefly the main heads of service obligation, and the acts which entail dismissal, is worthy of adoption in India.

§ 6.—*Uniform.*

At present also no standard or official orders have been issued about uniform, but as the service develops this will be necessary.

lation Forestière, A. Puton, Paris 1876, pages 50 and 113). In France forest officers have nothing to do with realizing revenue or with civil suits, nor can they represent the State in any question of proprietary right, exchange, and grant of rights, &c. (*Op. cit.*, pp. 57-8 and 93-4).

⁵ This view is not taken on the Continent. The laws always (as far as I am aware) require an oath of service. (See for example Code For., Art. 5). Similar importance is attached to uniform as indicating to the public the service and rank of the wearer. (See Art. 34, Ord. Regl., which requires forest officers on duty to be in uniform.) When the forest officer draws up his *procès verbal*, a document of which I shall speak hereafter, stating the facts of forest cases which have come under his official notice, the form always states that at the time he had duly taken the oath of service and was clothed with the distinctive marks of office (*assermentés et revêtus des marques distinctives de nos fonctions*), see Code For., Art. 160, and the forms given in the Guide Forestier. So under the Prussian law (see Eding, p. 182), the forest officer is justified in using his weapons in special circumstances, but he *must be in uniform* or with a badge of authority (*in Uniform oder mit einem amtlichen Abzeichen versehen*).